



BOARD OF PUBLIC WORKS & SAFETY MAY 6, 2004 MINUTES

Mayor Charles Henderson called the meeting to order at 8:33 a.m.

PRESENT:	Board members Warren Beville, Mayor Henderson, Kevin Hoover; Clerk-Treasurer Jeannine Myers; City Attorney Shawna Koons-Davis and Director of Engineering Paul Peoni.
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Mr. Beville moved to accept the minutes of April 22nd as presented. Second by Mr. Hoover. Vote: Ayes. Motion carried.

Payton Beaver came forward to ask permission to plant a tree in the right-of-way on Hideaway Court. The neighbors have no objection to a tree in that location. Mr. Beville moved to grant the request. Second by Mr. Hoover. Vote: Ayes.

Eva Stringer of 1305 Old Hickory Circle had a complaint about the trash pickup. She had seven bags of trash last week, she said, and only four were picked up – on heavy trash pickup week. There is a limit of five bags a week, and she usually puts out two, still being charged the \$8.50 per month. On her way to the meeting, she surveyed several streets. Construction debris was at the curb of some homes, some since heavy trash pickup last month. Ms. Stringer asserted that carpet and matting is included in what Republic will accept, and was still sitting at the curb. At seven homes she saw six to ten bags, not one had an orange sticker. Ms. Stringer described both of these issues as communication gaps. She would like to be allowed extra bags on heavy trash pickup days if she wants to do spring cleaning. Mayor Henderson admitted that there is a breakdown on getting information to employees and residents, but he has on a regular basis sent information on the sewer bills and sent it to the media. Republic has agreed to take five bags, no matter what they contain (including grass clippings), and any amount over that is a 75-cent sticker per bag. The Mayor explained that the City signed a two-year extension on the contract with Republic last year and construction debris was not included because of the cost. He told Ms. Stringer that we cannot adjust bills as to the amount of bags and told her he would talk with Republic about the possibility of taking more than five bags on heavy trash pickup week if there are no large items. Jerry Kreuzman of Republic Services said he would help work through the problem.

Mike Ramsey of Projects Plus requested the acceptance and execution of a Grant of Drainage Easement for Greenwood Bible Baptist Church. Mr. Peoni clarified that one of the Plan Commission requirements for Phase 2 was that the church submit a Grant of Limited Drainage Easement to the City for the detention pond they will be installing. The legal description and exhibits are acceptable to the Engineering Department. Mr. Hoover moved to accept and execute the drainage easement as presented. Second by Mr. Beville. Vote: Ayes. Motion carried.

Next, Mr. Ramsey had a request for an offsite drainage easement for University Park, Section 1. Mr. Peoni stated that they have an outlet that discharges into the Griffith Legal Drain, but they have to cross another property to get there. Again the legal description and exhibits have been reviewed, but Mr. Peoni questions whether the easement goes far enough and he wants that resolved. Mr. Beville moved to accept and execute the drainage easement for University Park, Section 1, based on final approval of the Engineering Department. Second by Mr. Hoover. Vote: Ayes.

Allan Fowler of 400 Polk Street explained that he does concrete work and keeps two trailers in his rear yard. He asked permission for an additional curb cut and to pave both the existing gravel driveway and new driveway to the street and also to replace a section of sidewalk after tree stumps are removed. Ms. Koons-Davis saw no problem with an additional driveway cut since this is next to industrial property and a parking lot. After more discussion, Mr. Hoover moved to grant the additional driveway cut request, grant the request of the replacement of the existing driveway with stamped concrete, and replacement of the sidewalk, all to be done in connection with the Engineering Department's approval and standards and

City officials addressing the drainage issue as to whether a pipe needs to be installed underneath both driveways. Second by Mr. Beville. Vote: Ayes.

Mike Ramsey of Projects Plus represented Crooked Bend Subdivision, Section 5A to request acceptance of a performance letter-of-credit for erosion control. Mr. Peoni confirmed that the amount and the form have both been approved by staff. At his recommendation, Mr. Beville moved to:

- 1) Accept performance Letter-of-Credit (LOC) #24-04 from Irwin Union Bank in the amount of \$55,705.21 for the installation of the erosion control at Crooked Bend Subdivision, Section 5A.

Second by Mr. Hoover. Vote: Ayes. Motion carried.

Jay Gibson of CDG Consulting, Inc. was next to ask for a waiver to allow dry detention, accept performance bonds and accept the Inspection & Testing Agreement for the OMS International Parking Facility. Mr. Peoni commented that once some questions and concerns regarding the plans and the calculations for dry detention are answered, the waiver may be able to be granted. He has received a letter from National City Bank saying they will be issuing the letters-of-credit, which should arrive tomorrow or early next week. Per Mr. Peoni's memo, Mr. Hoover moved to:

- 1) Accept a performance Letter-of-Credit (LOC) from National City Bank in the amount of \$55,582 for the installation of the dirtwork, storm sewers and erosion control at the OMS International Parking Facility site.
- 2) Accept a performance Letter-of-Credit (LOC) from National City Bank in the amount of \$8,738 for the installation of the street improvements in the public right-of-way at the OMS International Parking Facility site.
- 3) Accept the Inspection & Testing Agreement for all improvements except the sanitary sewers at the OMS International Parking Facility site and ratify acceptance of the 50% upfront fee.
- 4) Grant the waiver of dry detention once approved by the Engineering Department, all subject to:
 - a. Receipt of ORIGINAL letters-of-credit.
 - b. Law Department review and approval of the LOC form.
 - c. Engineering Department questions and concerns answered in a satisfactory manner by the project engineer with regards to the dry detention waiver.
 - d. Engineering Department review and approval of the LOC amount and improvements to be guaranteed.

Second by Mr. Beville. Vote: Ayes. Motion carried.

For Tuscany Village, Donald Gwinnup of Melton-Packard & Associates approached the Board to request a Sanitary Sewer Service Agreement. The property, approximately 51 acres, is at the southwest corner of Curry Road & Honey Creek Road. There will be 153 lots, Mr. Gwinnup stated. Since the property is in the County but contiguous to the City, Mayor Henderson told Mr. Gwinnup that it could be annexed without remonstrance. The property will need to be annexed first since this is the case.

For the dental suite at 973 Emerson Parkway, Anthony Ebeyer represented Midfield Crossing Associates, LLC to ask for acceptance in the change of performance guarantee for Sewer Availability Fee from a letter-of-credit to a bond. Mr. Peoni asserted that the form needs the name of the dental office and noted that it would expire in a year. The new state Bulletin 13 is still not released, and some guarantees have been in place four or more years. After discussion, the Board suggested that the bond be issued for two years and include the name of the dental office. Mr. Hoover moved to grant the request to change the guarantee from a letter-of-credit to a bond, subject to the bond having a two-year expiration date instead of one and the name of the dental office being referenced on the bond. Second by Mr. Beville. Vote: Ayes. Motion carried.

Ken Zumstein of J. Greg Allen & Associates came forward for the Versacom Building @ Indiana American Office Parke to ask for acceptance of the Inspection & Testing Agreement, acceptance of performance bonds and execution of the sub plat. They are building south of the urology building on County Line Road. Mr. Beville moved to:

- 1) Accept performance bond #5011314 from Bond Safeguard Insurance Company in the amount of \$41,670 for the installation of the dirtwork and storm sewers at the Versacom Building Site @ Indiana American Office Parke.
- 2) Accept performance bond #5011315 from Bond Safeguard Insurance Company in the amount of \$6,735 for the installation of the erosion control at the Versacom Building Site @ Indiana American Office Parke.

- 3) Accept performance bond \$5011316 from Bond Safeguard Insurance Company in the amount of \$13,939 for the installation of the street improvements in the public right-of-way at the Versacom Building Site @ Indiana American Office Parke.
- 4) Accept performance bond #5011317 from Bond Safeguard Insurance Company in the amount of \$2,069 for the installation of the sidewalks in the public right-of-way at the Versacom Building Site @ Indiana American Office Parke.
- 5) Accept the Inspection & Testing Agreement for all improvements except sanitary sewers at the Versacom Building Site @ Indiana American Office Parke and ratify acceptance of the 50% upfront fee.
- 6) Execute the sub plat, all subject to:
 - a. Law Department review and approval of the performance bond form.
 - b. Engineering Department final review and approval of the sub plat.

Second by Mr. Hoover. Vote: Ayes. Motion carried.

Joe Van Valer came forward with respect to Stacy Johnson, 3056 Stones Crossing Road, dental office, requesting sanitary sewer capacity. The property is currently an existing residence, which Dr. Johnson has contracted to purchase. Mr. Van Valer pointed to the adjacent Stonefield Subdivision and gave a brief history. At the time of Stonefield's Sewer Service Agreement (SSA) execution, the east two acres was zoned commercial, and the remaining acreage had been zoned for a condominium project. Since then, Stonefield has gone before the County, and the County has approved a change in zoning from part commercial and part condominium to all commercial. For the condominium portion the capacity in the current Stonefield SSA was approximately 9,700 gallons per day and approximately 1,600 per day gallons for the commercial portion. Mr. Van Valer explained that the capacity requirement, due to new zoning, would be reduced by about 7,000 gallons per day – or about 4,000 gallons per day as opposed to the current total of approximately 11,000 gallons per day. Mr. Van Valer learned in conversations with Sanitation Superintendent Keith Meier that he would possibly support Mr. Johnson's project if the capacity for the Stonefield SSA that has currently been reserved is reduced. Mr. Peoni also thought that there would be a better chance for Mr. Johnson if the current Stonefield 15 Year Agreement is amended to allow additional capacity. Mr. Van Valer recounted that Stonefield had made a presentation to the Board of Public Works & Safety to reduce the reservation of capacity at the point when Mr. Nichols (new owner of Stonefield) had his final construction plans and could ask for a Sewer Service Agreement amendment. Mr. Van Valer did tell the Board that the expiration date for the Stonefield agreement has passed, but they have made the initial connection, so that is not an issue. Mr. Johnson wants to feel confident that the amount of capacity needed for the dental office, which would be miniscule, is available. Dr. Johnson is willing to take the risk associated with the Stonefield agreement amendment as they understand they cannot get the capacity before it is released by Stonefield. Mr. Van Valer stated that the Sanitation Superintendent has said he knows of no other requests for capacity on this line. Ms. Koons-Davis stressed that a project is in the queue only when the Sewer Service Agreement is approved and signed. Joe Meyer of KOE Engineering & Surveying thought construction plans for Mr. Johnson's project might take six weeks to complete. Mr. Hoover said he had no objection, once the Stonefield capacity is released, to allowing whoever is first in line access to it, subject to the project first in line meeting all requirements, and this was the consensus of the Board.

Concerning the nuisance complaint at 1163 Cherryfield Lane, counsel brought a request from Code Enforcement to ask for a two-week continuance to the next Board meeting, because the property owner has removed one of the vehicles and is diligently working to remove the other. The owner has had to apply for a duplicate title. Mr. Hoover moved to continue the matter until the May 20th meeting. Second by Mr. Beville. Vote: Ayes. Motion carried.

The Mayor excused himself at this time for another meeting.

Fire Chief Steve Dhondt brought a request to spend grant funds. One phase of the grant is to upgrade all the self-contained breathing apparatus and the second phase was to install exhaust removal systems in all of the fire stations. The Fire Department has already received a draw from the Department of Homeland Security for \$46,000. The direct deposit will be able to be confirmed this week, when the statement comes. Only two distributors provide equipment for the first phase, indicated Chief Dhondt. One declined to provide a quote. The other quote is for \$47,724. Mr. Hoover moved to allow the request to have the self-contained breathing apparatus upgraded as soon as the equipment comes in. Second by Mr. Beville. Chief Dhondt explained that it is a 90%/10% grant, and they have the funds in their budget for the other \$1,724. Vote: Ayes.

On her Status of Tasks, Ms. Koons-Davis first brought up the demand among residents that grass clippings be collected as trash. She has prepared an amendment for this purpose. Mr. Hoover moved to amend the City's Agreement with Republic Services of Indiana, L.P. for Trash Collection and Curbside Recycling Services to include grass clippings in the definition of the term "trash", as negotiated by the Mayor and drafted by the City Attorney, and to authorize the Mayor to sign the amendment in the Board's behalf. Second by Mr. Beville. Vote: Ayes.

Next Ms. Koons-Davis discussed the authorization of settlement agreement with Phil Hommel regarding erroneous pension payments. After discussion, Mr. Beville moved to authorize the Mayor to approve settlement of the Phil Hommel matter with terms and conditions in his discretion and to execute any and all documents to effectuate settlement in the Board's behalf. Second by Mr. Hoover. Vote: Ayes. Motion carried.

In connection with a matter that was discussed last February, the City Attorney discussed the intermediate school that Clark-Pleasant Community School Corporation is building on the northeast corner of Sheek and Worthsville Road. The City is requiring that Clark-Pleasant Schools perform road improvements to Worthsville Road as part of their site plan. To accomplish this, Cinergy will have to move some of their utility poles that are in the right-of-way but is refusing to move them at their own expense. They are treating the school like a private developer and saying the cost to relocate the poles is approximately \$220,000. The Board previously authorized staff to assist and offered to share sanitary sewer easements for the Eastside Interceptor but all efforts have been unsuccessful. Allen Townsend, the attorney for the school corporation contacted the City Attorney, asking whether the City would consider accepting a restrictive donation for the cost of the road improvements to enable the City to perform, or cause to be performed, the road improvements as a public works project. The school corporation understands that the condition of the site plan approval regarding the road improvements would have to be removed by the Plan Commission. Counsel for the school corporation hopes that this will force Cinergy to relocate the poles at its expense. The amount of the restrictive donation also remains an issue, as the school corporation is only expected to pay half the cost and Republic Development the other half, of the road improvements. Republic has not yet contacted the school corporation, as staff understands. Clark-Pleasant informs us that they can open the school without the road improvements being completed. There is a six-month lead time for Cinergy to order the materials to facilitate moving the poles, so the poles might not be moved until the spring of 2005. The school is asking if the City wants them to complete the entrance or leave one point of ingress and egress for the public to use off of Sheek Road until the Worthsville Road improvements are complete. Mr. Hoover suggested exploring the possibility of structuring an agreement with the school so that it does not impact Cinergy's position. The temporary drive may be sufficient for emergency access.

The City Attorney reported that the Common Council took action on May 5th to pass a resolution expressing interest in the purchase of land – the Gilmour property. We need to hire two appraisers, she indicated, to determine the purchase price so that the Council can decide whether to go forward with negotiations. She asked direction of the Board. This would probably come out of Council 331. Mr. Hoover moved to direct staff to take those steps necessary to get the appraisals done so they can pursue their resolution. Second by Mr. Beville. Vote: Ayes. Motion carried.

On his Status of Tasks, Mr. Peoni discussed the Eastside Interceptor, Phase 2A, where an alternate route was needed to get to the Hurricane Creek Lift Station. Previously the Board authorized appraisals on the JRM Associates (Kelsay) parcel. The appraisals have been received, reported Mr. Peoni, and an offer has been made this week. They have 25 days to respond. If they do not respond the City wants to be able to proceed with condemnation action. Mr. Beville moved to authorize staff to proceed with these steps if it should become necessary. Second by Mr. Hoover. Vote: Ayes. Motion carried.

For South Park Business Center, Mr. Peoni reminded the Board that a \$2,200 sidewalk bond was posted 13 years ago for an internal sidewalk system for the project. It has developed differently than originally anticipated, so Duke Construction would like to give a restrictive donation for sidewalks in the amount of \$5,000 to be used anywhere in the City and placed in the sidewalk fund. By doing that, they are asking for release of the performance bond for \$2,200. Mr. Beville moved to accept the donation to be placed in the sidewalk fund and to release performance bond #3SM77065200 from American Motorist Insurance Company in the amount of \$2,200. Second by Mr. Hoover. Vote: Ayes. Motion carried.

The developers of University Park, Section 3, are asking for acceptance of their Inspection & Testing Agreement for sanitary sewers and a separate one for all other improvements. They have submitted the

upfront fees as well. Mr. Hoover moved to accept the Inspection & Testing Agreements for University Park, Section 3 and ratify acceptance of the checks. Second by Mr. Beville. Vote: Ayes. Motion carried.

University Park, Section 4, had the same request with two Inspection & Testing Agreements. They have paid their 50% fee. Mr. Beville moved to accept these Inspection & Testing Agreements and ratify acceptance of the checks. Second by Mr. Hoover. Vote: Ayes. Motion carried.

Concerning the Emerson Avenue project, INDOT has a Report of Contract Final Inspection and Recommendation for Acceptance. Mr. Peoni asked if this should go to the Redevelopment Commission. Ms. Koons-Davis thought that Board signatures would be acceptable. Mr. Peoni commented that the arrows in the turn lanes are to be repaired. Everything otherwise has been completed. Mr. Hoover moved to execute the documents as presented. Second by Mr. Beville. Vote: Ayes. Motion carried.

Human Resources Director Carolyn Gaier brought the excess liability proposal for the City. David Stace of Gregory & Appel discussed the proposals. He was able to secure a proposal from Admiral Insurance Company, a non-admitted carrier in Indiana. The only other insurance company providing a proposal was General Star Insurance Company, which would write \$1,000,000 excess liability only over the Automobile Liability, for a premium of \$50,000, or \$10,000 greater than the automobile portion of the Admiral proposal. A non-admitted carrier is not protected by the Indiana Guaranty Fund, which is designed to protect policyholders from insurance company insolvencies. Admiral is allowed to do business in Indiana, indicated Mr. Stace, and is an A+ rated company and has financial capacity of up to \$750,000,000 as well. He went on to discuss details of the proposal (included in the attachments of this meeting). Mr. Stace presented an invoice for \$75,000 which covers all charges on the policy and recounted for Mr. Beville that last year the Board determined, with the increase in cost, that \$1,000,000 would be sufficient coverage and dropped the limit from \$4 million to \$1 million. Mr. Hoover moved to accept the excess liability and pay the invoice presented by Gregory & Appel. Second by Mr. Beville. Vote: Ayes.

With no further business, the meeting adjourned at 10:17 a.m.